

United States District Court
Eastern District of New York

**FILED
CLERK**

7/15/2016 10:41 am

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Fifth Third Mortgage Company,

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

Plaintiff,

~~-against-~~

United States Department of Veterans Affairs, Joyce Thomas
a/k/a Joyce Tillery, and Kathleen Murray,

ORDER
14-cv-6524(ADS)(SIL)

Defendants.
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APPEARANCES:

Solomon & Siris, P.C.

Attorneys for the Plaintiff Fifth Third Mortgage Co.
100 Quentin Roosevelt Boulevard, Suite 504
Garden City, NY 11530

By: Eric A. Zeni, Esq., Of Counsel

United States Attorney's Office, Eastern District of New York

Attorneys for the Defendant U.S. Dept. of Veterans Affairs
610 Federal Plaza
Central Islip, NY 11722

By: Diane C. Leonardo-Beckmann
Thomas A. McFarland, Assistant U.S. Attorneys

NO APPEARANCES:

Joyce Thomas a/k/a Joyce Tillery
Defendant

Kathleen Murray
Defendant

SPATT, District Judge:

On November 5, 2014, the Plaintiff Fifth Third Mortgage Company (the "Plaintiff") commenced this action against the United States Department of Veterans Affairs ("USDVA"), Joyce Thomas a/k/a Joyce Tillery ("Tillery"), and Kathleen Murray ("Murray"), seeking a declaration establishing the parties' respective rights and obligations in and to a parcel of real property located in Roosevelt (the "Property"). In particular, the Plaintiff, who holds a security interest in the

Property, seeks to close a gap in the chain of title and have the Court determine proper ownership over the Property, so that it may enforce its mortgage lien.

On January 20, 2015, the United States Attorney's Office appeared in this action on behalf of the USDVA. However, the USDVA did not file an answer or otherwise respond to the complaint.

On June 22, 2015, the Clerk of Court noted the defaults of Tillery and Murray, and on September 23, 2015, the Plaintiff moved for entry of a default judgment against them. To date, Tillery and Murray have not opposed the Plaintiff's motion or otherwise appeared in this action.

On September 24, 2015, the Court referred this matter to United States Magistrate Judge Steven I. Locke for a recommendation as to whether the motion for a default judgment should be granted, and if so, the relief to be granted.

On June 30, 2016, Judge Locke issued a Report and Recommendation (the "R&R"), recommending that the Plaintiff's motion for a default judgment be granted in its entirety. In particular, among other things, Judge Locke found that a sufficient legal basis exists for declaring that the USDVA and Tillery have no present interests in the Property; that Murray holds sole title to the Property; and that Murray was within her rights to grant the Plaintiff the subject mortgage.

On June 30, 2016, the Plaintiff filed proof of service of the R&R on all of the Defendants. More than fourteen days have elapsed since service of the R&R on the Defendants, each of whom has failed to file an objection.

Therefore, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the June 30, 2016 Report and Recommendation is adopted in its entirety, and the Plaintiff's motion for a default judgment is granted. An executed judgment in a form substantially similar to the proposed judgment submitted by the Plaintiff will issue under separate cover.

The Clerk of the Court is respectfully directed to close this case.

It is **SO ORDERED**

Dated: Central Islip, New York
July 15, 2016

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge